IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

Crl.Rev.Pet.No. 3844 of 2006(A)

CRA.471/2006 of SESSIONS COURT, ERNAKULAM
CC.500/1998 of ADDL.CHIEF JUDICIAL MAGISTRATE (E & O), ERNAKULAM

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REVN. PETITIONER: APPELLANT/ACCUSED

AYSHA MAMMOOTTY, W/O. MAMMOOTTY,
ASARIPARAMBIL HOUSE, CHANDIROOR-47.

BY ADV. SRI.P.K.ABOOBACKER(EDAPPALLY)

RESPONDENTS: RESPONDENTS/COMPLAINANT & STATE

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1. A.M.THANKACHAN, S/O. A.J.MATHAI,
RESHMI, CHERUPARAMBATH ROAD,
KADAVANTHRA, KOCHI-20.

2. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI.A.BALAGOPALAN
SRI.A.RAJAGOPALAN
SRI.V.N.GOPINATHAN
PUBLIC PROSECUTOR SRI.PUZHAKKARA MUHAMMED

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 29/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl.R.P. No. 3844 OF 2006 A

Dated this the 29th day of June, 2007

O R D E R

In this Revision filed under Section 397 read with Sec. 401 Cr.P.C. the petitioner who was the accused in C.C. No.500/1998 on the file of the Additional Chief Judicial Magistrate(Economic Offences) Court, Ernakulam challenges the conviction entered and the sentence passed against her for an offence punishable under Sec. 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'the Act').

2. I heard the learned counsel for the Revision Petitioner and the learned Public Prosecutor.

3. The learned counsel appearing for the Revision Petitioner re-iterated the contentions in support of the Revision. The courts below have concurrently held that the cheque in question was drawn by the appellant in favour of the complainant on the drawee bank, that the cheque was validly presented to the bank, that it was dishonoured for reasons which fall under Section 138 of the Act, that the complainant made a demand for payment by a notice in time in accordance with clause (b) of the proviso to Section 138 of the Act and that the Revision Petitioner/accused failed to make the payment within 15 days of receipt of the statutory notice. Both the courts have considered and rejected

the defence set up by the revision petitioner while entering the above finding. The said finding has been recorded on an appreciation of the oral and documentary evidence. I do not find any error, illegality or impropriety in the finding so recorded concurrently by the courts below. The conviction was thus rightly entered against the petitioner.

4. What now survives for consideration is the question as to whether a proper sentence has been imposed on the Revision Petitioner.

5. I am, however, inclined to modify the sentence imposed on the appellant provided she complies with the condition hereinafter mentioned. Accordingly, the sentence imposed on the appellant is modified substituting the cheque amount of Rs.1,25,000/- as the amount of compensation as against Rs.2 lakhs by the court below. If the revision petitioner has already deposited the cheque amount of Rs.1,25,000/-, then she need to undergo only imprisonment till the rising of the court.

This Revision is disposed of confirming the conviction but modifying the sentence as above.

Sd/-
(V. RAMKUMAR, JUDGE)

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True Copy

P.A. to Judge